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8 UNITED STATES DISTRICT COURT

9 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

10
11 HARRIET L. DIAMENT,

12 Plaintiff,

13 vs.

14 REV RECREATION GROUP, INC.,
FREIGHTLINER, LLC, DENNIS
15 DILLON RV, INC., and DOES 1-20,

16 Defendants.

CASE NO.

**NOTICE OF REMOVAL OF CIVIL
ACTION; DEMAND FOR JURY
TRIAL**

*[Filed and Served Concurrently with
Declaration of Richard C. Moreno]*

**[28 U.S.C. §§ 1441, 1446]
(Diversity)**

**[Filed concurrently with Notice of
Interested Parties]**

Trial Date: None Set

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20 **TO THE HONORABLE JUDGES OF THE UNITED STATES**
21 **DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA:**

22 **PLEASE TAKE NOTICE** that Defendant, FREIGHTLINER CUSTOM
23 CHASSIS CORPORATION ("FCCC"), pursuant to 28 U.S.C. §§ 1441 and 1446,
24 files this Notice of Removal of this civil action from the Superior Court of the State
25 of California for the County of Los Angeles to the United States District Court for the
26 Central District of California, Western Division.

27 The grounds for removal are as follows:

28 ///

1 I. INTRODUCTION

2 1. FCCC, a Delaware corporation, with its principal place of business
3 located in Gaffney, South Carolina, is a defendant in the civil action entitled, Harriet
4 L. Diament vs. REV Recreation Group, Inc., et al., with case number 24BBCV00153,
5 which was commenced on January 18, 2024, in the Superior Court of the State of
6 California, County of Los Angeles, and is now pending therein. A true and correct
7 copy of the Complaint is attached hereto and incorporated by reference as **Exhibit A**.

8 2. On or about February 13, 2024, Plaintiff named FCCC as a Doe
9 defendant. A true and correct copy of the Doe Amendment is attached hereto and
10 incorporated by reference as **Exhibit B**. On or about February 21, 2024, Plaintiff
11 electronically served a copy of the summons and complaint and a notice and
12 acknowledgement of receipt to FCCC counsel, Richard C. Moreno. A true and
13 correct copy of the Summons is attached hereto and incorporated by reference as
14 **Exhibit C**. Mr. Moreno was authorized to accept service on behalf of FCCC. On or
15 about February 22, 2024, Mr. Moreno executed and electronically served a Notice
16 and Acknowledgement of Receipt on behalf of FCCC, pursuant to California Code of
17 Civil Procedure § 415.30. A true and correct copy of the Notice and
18 Acknowledgement of Receipt is attached hereto and incorporated by reference as
19 **Exhibit D**. Thus, Plaintiff effected service on FCCC in a manner prescribed by
20 California law.

21 3. Under 28 U.S.C. § 1446, a defendant has 30 days from the date of
22 service upon it to file a notice of removal. Because service of process was completed
23 on February 22, 2024, the 30-day window for removal commenced to run until March
24 25, 2024 since the 30th day falls on a Saturday. Pursuant to 28 U.S.C. §§ 1441 and
25 1446, this Notice of Removal is timely filed.

26 4. As more fully set forth below, this is a civil action over which this Court
27 has original jurisdiction under 28 U.S.C. § 1332(a) and (c); therefore, it is removable
28 under 28 U.S.C. § 1441. This case involves a matter in controversy that exceeds the

1 sum or value of \$75,000, exclusive of interest and costs, a plaintiff who is
 2 presumably a citizen of California, and three defendants who are citizens of
 3 Delaware, Idaho, South Carolina, and Wisconsin. On these grounds and pursuant to
 4 28 U.S.C. §1441, FCCC may remove this civil action to this Court.

5 **II. THIS MATTER RAISES ISSUES OF DIVERSITY**

6 **A. Diversity Under 28 U.S.C. § 1332(a).**

7 **1. The Amount in Controversy Requirement Exceeds \$75,000.**

8 5. It is apparent from the face of the Complaint that Plaintiff seeks recovery
 9 of an amount in excess of \$75,000, exclusive of costs and interest. Specifically,
 10 Plaintiff alleges that she entered into a contract and purchased, on or about August 1,
 11 2018, a 2019 Monaco Signature, VIN 2UZACGCY6GCHH0549, for \$360,000.

12 **Exhibit A**, Complaint, ¶¶ 1, 4. Allegedly, FCCC and Defendant REV
 13 RECREATION GROUP, INC. (“REV”) “failed to perform all necessary repairs on
 14 the SUBJECT TRAILER in order to correct the defects in materials and/or
 15 workmanship that plagued the SUBJECT TRAILER.” **Exhibit A**, Complaint, ¶ 6.
 16 Whereas, “Defendant DENNIS DILLON RV, INC. [‘Dillon’] [allegedly] sold the
 17 SUBJECT TRAILER to Plaintiff with the aforementioned defects in materials and
 18 workmanship. . . .” **Exhibit A**, Complaint, ¶ 7. Moreover, Defendants allegedly
 19 “failed to return the consideration paid by Plaintiff, and/or failed to replace the
 20 defective trailer.” **Exhibit A**, Complaint, ¶ 9. As a result, “[b]y reason of Defendants’
 21 failure to restore the consideration paid by Plaintiff, Plaintiff has been specifically
 22 damaged in the sum of \$360,000.00 plus incidental damages. Pursuant to California
 23 Civil Code Section 1794, Plaintiff is entitled to actual damages and a civil penalty
 24 which shall not exceed two times the amount of actual damages and reasonable
 25 attorney fees according to proof.” **Exhibit A**, Complaint, ¶ 13. Plaintiff also prays
 26 for statutory or treble damages, incidental damages, consequential damages,
 27 attorneys’ fees, and other such relief as provided by the Court. **Exhibit A**, Complaint,
 28 Prayer for Relief, p. 4.

2. **Complete Diversity of Citizenship Exists.**

6. There is complete diversity of citizenship between the Plaintiff and the Defendants in this action.

7. According to the Complaint, Plaintiff entered into the contract in Studio City, California. **Exhibit A**, Complaint, ¶ 1. Although not elaborated further in the Complaint, presumably Plaintiff is and at all times relevant to this action a citizen of the State of California.

8. Plaintiff incorrectly alleges that FCCC is a California corporation. **Exhibit A**, Complaint, ¶ 2. In fact, FCCC is a Delaware corporation with its principal place of business located in Gaffney, South Carolina. Declaration of Richard C. Moreno, ¶ 5; a true and correct copy of the South Carolina Secretary of State Business Entities for FCCC is attached hereto and incorporated by reference as **Exhibit E**; a true and correct copy of the FCCC Webpage is attached hereto and incorporated by reference as **Exhibit F**. Pursuant to 28 U.S.C. § 1332(c)(1), “a corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business.” 28 U.S.C. §1332(c)(1). Thus, FCCC is deemed to be a citizen of the States of Delaware and South Carolina.

9. Plaintiff also incorrectly alleges that REV is a California corporation. **Exhibit A**, Complaint, ¶ 2. In fact, REV is a Delaware corporation with its principal place of business located in Brookfield, Wisconsin. Moreno Decl., ¶ 6; a true and correct copy of the Delaware Secretary of State Business Entities for REV is attached hereto and incorporated by reference as **Exhibit G**; a true and correct copy of the REV Webpage is attached hereto and incorporated by reference as **Exhibit H**. Thus, REV is deemed to be a citizen of the States of Delaware and Wisconsin. 28 U.S.C. § 1332(c)(1).

10. Plaintiff also incorrectly alleges that Dillon is a California corporation. **Exhibit A**, Complaint, ¶ 3. In fact, Dillon is a single member, Idaho Limited

1 Liability Corporation, with its principal place of business located in Boise, ID.
2 Moreno Decl., ¶ 7; a true and correct copy of the Articles of Organization, dated
3 February 26, 2007, for Dillon and filed with the Secretary of State—State of Idaho is
4 attached hereto and incorporated by reference as **Exhibit I**. Dennis Dillon
5 Automotive Group, Inc., an Idaho s-corp, is Dillon's sole member. *Ibid*. Thus, Dillon
6 is deemed to be a citizen of the State of Idaho. 28 U.S.C. § 1332(c)(1).

7 11. Based on information and belief, REV and Dillon have been served in
8 this action and hereby join in this Notice of Removal. Moreno Decl., ¶ 8.

9 12. Based on the foregoing, this case is removable to the United States
10 District Court for the Central District of California pursuant to 28 U.S.C. §§ 1332 and
11 1441, because: (1) the Plaintiff is presumably a citizen of the State of California; (2)
12 FCCC is a citizen of the States of Delaware and South Carolina; (3) REV is citizen of
13 the States of Delaware and Wisconsin; (4) Dillon is citizen of the State of Idaho; and
14 (5) the amount in controversy, more likely than not, satisfies the \$75,000
15 jurisdictional requirement, exclusive of costs and interest.

16 **III. PROCEDURAL REQUIREMENTS FOR REMOVAL ARE SATISFIED**

17 13. As noted previously, this Notice of Removal is timely according to 28
18 U.S.C. § 1446.

19 14. FCCC, in good faith, believes that, based on the Complaint, the amount
20 in controversy exceeds \$75,000, exclusive of costs and interest, and Defendants are
21 citizens of states, other than California; thus, diversity exists.

22 15. The United States District Court for the Central District of California
23 embraces the county in which the state court action is now pending. Therefore, this
24 action is properly removed to the Central District of California pursuant to 28 U.S.C.
25 § 84(c)(1).

26 16. Pursuant to 28 U.S.C. § 1446(d), FCCC is filing written notice of this
27 removal to all adverse parties and will file a copy of the notice with the clerk of the
28 State court in which this action is currently pending.

1 17. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of process,
2 pleadings and orders served by or upon FCCC in the state court action are attached as
3 **Exhibits A, B, C, and D.**

4 WHEREFORE, Defendant respectfully removes this action from the Superior
5 Court of the State of California for the County of Los Angeles to the United States
6 District Court for the Central District of California pursuant to 28 U.S.C. §§ 1332,
7 1441, and 1446.

8 **DEMAND FOR JURY TRIAL**

9 Pursuant to Federal Rule of Civil Procedure 38, Defendant FCCC hereby
10 demands trial by jury in this action.

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12 DATED: March 8, 2024

MURCHISON & CUMMING, LLP

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14 By: 

15 Richard C. Moreno
16 Attorneys for Defendant, FREIGHTLINER
17 CUSTOM CHASSIS CORPORATION
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PROOF OF SERVICE

**Harriet L. Diamant vs. Freightliner, LLC., et al.
24BBCV00153**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 801 South Grand Avenue, Ninth Floor, Los Angeles, CA 90017-4613.

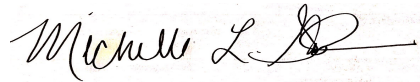
On March 8, 2024, I served true copies of the following document(s) described as **NOTICE OF REMOVAL OF CIVIL ACTION; DEMAND FOR JURY TRIAL** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, and pursuant to California Rules of Court 2.251(b), (c) and/or California Code of Civil Procedure §1010.6(e), I caused a copy of the above-referenced document(s) to be sent via electronic transmission from the e-mail address of mfisher@murchisonlaw.com to the interested parties at the e-mail address(es) as stated below. No error was reported.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on March 8, 2024, at Los Angeles, California.



Michelle L. Fisher

SERVICE LIST
Harriet L. Diamant vs. Freightliner, LLC., et al.
24BBCV00153

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RECREATION GROUP, INC. and
DENNIS DILLON RV, LLC
(erroneously sued and served herein as
DENNIS DILLON RV, INC.)